REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the final Office Action dated August 9, 2011, hereinafter "Office Action." In that Office Action, claims 1-5, 7, 9, 11, 20-26, 28, 36-43 and 45 were examined and all claims were rejected. Claims 1, 3-5, 7, 9, 11, 20-26, 28, 36, 38-43 and 45 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jerger et al. (U.S. Pat. No. 6,321,334; hereinafter "**Jerger**") in view of Donohue (U.S. Pat. No. 6,202,207; hereinafter "**Donohue**") and further in view of Pennell et al. (U.S. Patent Application Publication No. 20030098883; hereinafter "**Pennell**"). Claims 2, 22, and 37 were further rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jerger in view of Donohue and Pennell and further in view of Touboul et al. (U.S. Patent No. 6,092,194; hereinafter "**Touboul**").

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 1, 3-4, 21, 23-24, 36, and 38-39 have been amended, no claims have been canceled, and no claims have been added. Therefore, claims 1-5, 7, 9, 11, 20-26, 28, 36-43 and 45 remain present for examination.

Applicants submit that claim amendments are supported throughout the specification, and in the claims as originally filed, and do not introduce new matter. For instance, the amendments are supported by at least the following sections of the Specification, as published: [0037], [0050], [0057], and [0067].

Interview Summary

Applicants wish to thank Examiner Abrishamkar for conducting an in-person interview with Applicant's representative, Tim Scull, on October 31, 2011. In that interview, Applicant's representative discussed the differences between the cited references and the recited embodiments with Examiner Abrishamkar. Applicant's representative also proposed claim amendments to further distinguish the recited claims from the cited references. No agreement was reached regarding the allowance of the pending claims.

Official Notices

The Examiner rejected Claims 1, 3-5, 7, 9, 11, 20-26, 28, 36, 38-43 and 45 under 35 U.S.C. § 103(a) as being obvious over cited references combined with official notice of what the Examiner considered to be well known in the art. The Applicants traverse each instance where the Examiner has taken Official Notice, and request that the Examiner provide tangible proof of the existence of the state of the art to which the Examiner has taken Official Notice in the event that the next action on the merits is not an allowance of all claims against which official notice was taken.

MPEP § 2144.03 provides that the Examiner may take Official Notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. The stated rationale is that, if justified, the Examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that official notice can be taken, it is sufficient so to state.

However, the MPEP also states that, if the Applicants traverse such an assertion, the Examiner should cite a reference in support of his or her position. In the instant case, the Applicants traverse each of the assertions of official notice as stated above, and respectfully requests that evidence of the correctness of the statements in the official notice be provided.

Also, if the rejection is based on facts within the personal knowledge of the Examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the Applicants, by an affidavit from the Examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the Applicants and other persons. *See* 37 CFR 1.104(d)(2). Accordingly, the Applicants respectfully request that, if the Official Notice is based on facts within the personal knowledge of the Examiner, an affidavit be so provided.

An example of the Examiner taking Official Notice, with respect to claim 1, is set forth below:

10.   Furthermore, it is notoriously well known in the art to provide a description of an action to the user with a modeless prompt. Examples abound: modeless prompts describing status and actions have been a part of GUI-based OS systems from their inception. The basic rational for providing a description with a modeless prompt is that it informs the user 1) an action was taken and 2) what the action was. Furthermore, a modeless prompt that is displayed when an object is suppressed without any description of the object being suppressed is analogous to an alert of a situation without any description of the situation; in both scenarios, a message that identified what has occurred enables the receiver of the prompt or alert to properly react to the prompt or alert. Official Notice of this teaching is taken. It would be obvious to one of ordinary skill in the art at the time the invention was made for the modeless prompt to provide a description of the object being suppressed. One would be motivated to do so to provide the user with a more user-friendly experience as known to one of ordinary skill in the art. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the step of suppressing the object to include displaying a prompt to indicate the suppression of the object based upon the positive evaluation of any of the criteria; wherein the prompt is a modeless prompt to advise a user of the object being suppressed and to provide the user with a subsequent activation choice; wherein the one or more instructions to determine the trust level security setting for the object causes the one or more processors to determine whether the object is a popup window, and wherein further the one or more instructions to provide an activation opportunity for the action causes the one or more processors to display a user interface indicating the suppression of the action due to a positive determination and offering an activation option. One would be motivated to do so for a user-friendly manner of informing the user of a preventive measure by the invention. Office Action, pp. 10-11.

The Official Notice set forth with respect to claim 1 is substantially similar to the Official Notice set forth with respect to claims 7, 21, 23-26, and 28. With regard to the foregoing example of Official Notice taken by the Examiner, as well as all other instances, the Applicants are knowledgeable in the art and respectfully traverse the conclusions drawn.

As such, the Applicants do not necessarily agree with the Official Notices, nor do they acquiesce to the statements made in the Office Action regarding Official Notices. Accordingly, in the event that the next action on the merits is not an allowance of all claims against which Official Notices were taken, the Applicants traverse the taking of Official Notices, and request that the Examiner provide tangible proof of the existence of the state of the art to which the Examiner has taken each respective Official Notice.

Claim Rejections Under § 103(a)

Claims 1, 3-5, 7, 9, 11, 20-26, 28, 36, 38-43 and 45 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jerger in view of Donohue and further in view of Pennell. Applicants respectfully traverse the § 103(a) rejections because the Examiner failed to state a *prima facie* case of obviousness. In addition, even if the Examiner had stated a *prima facie* case of obviousness, the current amendments to the claims now render the Examiner's arguments moot. To establish a *prima facie* case of obviousness, the references must teach or suggest each and every one of the claim elements to one of ordinary skill in the art at the time the invention was made. *See* MPEP §§ 2142, 2143.03; *In re Wilson*, 424 F.2d 1382, 1385 (C.C. P.A. 1970). In addition, *KSR International Company v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (2007), requires that there "must be some *articulated reasoning with some rational underpinning* to support the legal conclusion of obviousness." (Emphasis added.) Further, "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *KSR Int'l Co.*, 127 S. Ct. at 1741. Specifically, the references fail to teach or suggest all of the claim elements. Applicants submit that Jerger fails to teach or suggest all of the claimed limitations and the combination with Donohue and Pennell fail to compensate for the deficiencies of Jerger.

<u>Independent Claim 1</u>

Claim 1, as amended, recites, *inter alia*:

> when the trust level accorded to the object reaches a threshold trust level based on the variable combinations of the content, source, and action of the object, evaluating the content of the object to determine whether the object contains an upgrade for a program already existing on the client device;

> upon determining that the content of the object contains the upgrade for the program already existing on the client device, providing an activation opportunity comprising:

displaying a prompt to advise the user that the content of the object contains the upgrade for the program already existing on the client device; and

displaying a selection opportunity for the user to accept or decline the upgrade of the program already existing on the client device; and

upon determining the user acceptance of the selection opportunity, activating the action of the object by reloading the web page.

In contrast, Jerger discloses computer-based systems and methods for a comprehensive security model for managing foreign content downloaded from a computer network. Specifically, Jerger provides for using one or more independently configurable security zones, whereupon each security zone corresponds to a group of network connections and may have configurable security settings to control access to a host system from the computer network. As such, the systems and methods disclosed by Jerger are different from the present systems. In particular, Jerger fails to teach or describe, *inter alia*, "evaluating a content of the object *to determine whether the object contains an upgrade for a program* already existing on the client device," "*upon determining that the content of the object contains the upgrade* for the program already existing on the client device, *providing an activation opportunity*," "*displaying a prompt to advise the user that the content of the object contains the upgrade* for the program already existing on the client device," and "*displaying a selection opportunity for the user to accept or decline the upgrade* of the program already existing on the client device," as recited in claim 1, as amended (emphasis added). The Examiner apparently concurs, citing within the Office Action that "Jerger does not disclose the criteria includes [sic] whether the object is to upgrade an existing object." Office Action, p. 9. Jerger also fails to teach or disclose "upon determining the user acceptance of the selection opportunity, activating the action of the object by reloading the web page," as recited in claim 1 (emphasis added). As such, Jerger does not anticipate claim 1.

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To account for the aforementioned deficiencies of Jerger, the Examiner cited Donohue within the Office Action, stating that:

> Donohue discloses a method for updating software, including accessing a web site to download resources to update versions of a software, downloading the resources, verifying the resources and building the updated version, wherein verification step includes verifying the signature of the downloaded resource, verifying allowable growth paths from the current to the updated versions based on license restrictions, and verifying other authentication information including password and/or a database usage parameter value. Col. 10: 16-12:48. It would be obvious to one of ordinary skill in the art at the time the invention was made for the criteria to include whether the object is to upgrade an existing object, since this ensures that only trusted resources are used to upgrade an existing object. Donohue, 10:50-58. Office Action, pp. 9-10.

The Applicants agree that Donohue relates to a method and a mechanism for synchronized updating of interoperating software. However, the Applicants respectfully assert that Donohue does not cure the deficiencies of Jerger, discussed above, and that Donohue fails to teach or describe "evaluating a content of the object *to determine whether the object contains an upgrade for a program* already existing on the client device," "*upon determining that the content of the object contains the upgrade* for the program already existing on the client device, *providing an activation opportunity*," "*displaying a prompt to advise the user that the content of the object contains the upgrade* for the program already existing on the client device," "*displaying a selection opportunity for the user to accept or decline the upgrade* of the program already existing on the client device," and "upon determining the user acceptance of the selection opportunity, *activating the action of the object by reloading the web page*," as recited in claim 1, as amended (emphasis added). Specifically, Donohue describes a client-server update model whereby a client "updater component" initiates "a search for available updates to [a] particular software product." Donohue, col. 10, ll. 16-22. The updater component of Donohue then receives a list of available Web sites (i.e., URLs) "on which the information is available." Donohue, col. 10, ll. 30-31. Donohue further describes that "[t]he updater component then performs…a comparison 250 between the current installed software product's identifier and release number and the listed available updated in the retrieved file 160." Donohue, col. 10, ln. 59 – col. 11, ln. 38. Donohue then describes further deciding upon an appropriate update (i.e., "a growth path"), and additional steps, prior to downloading the instructions necessary to update the

particular software product. See Donohue, col. 11, ln. 46 – col. 13, ln. 10. In fact, the multiple client-server communications necessary within Donohue (i.e., to identify and obtain update instructions by the updater component) teach away from the Applicants' elegant solution of receiving an activatable object that is determined to "*contain*[] *an upgrade* for a program already existing on the client device," as provided in claim 1, as amended (emphasis added).

In addition, as cited by the Examiner, the combination of Donohue and Jerger further fail to teach or disclose "wherein the prompt is a modeless prompt to advise a user of the object being suppressed and to provide the user with a subsequent activation choice." Office Action, p. 10. To account for the aforementioned deficiencies of Jerger and Donohue, the Examiner cites Pennell within the Office Action, stating that:

> Pennell discloses a method for blocking "bad" windows and displaying "good" windows, wherein a window analyzer identifies whether a window is "good" or "bad" based on a list having characteristics of the window, including the source of the window (paragraph 0043), and wherein when a "bad" window is identified, blocking the window and displaying a prompt to indicate the suppression of the window based on this identification. (paragraph 0081) Pennell further discloses the prompt is a modeless prompt to advise a user of the object being suppressed and provides the user with a subsequent activation choice. (Pennell, paragraph 0081, 5th, 6th sentence) It would be obvious to one of ordinary skill in the art at the time the invention was made for the step of suppressing the object to include displaying a prompt to indicate the suppression of the object based upon the positive evaluation of any of the criteria; wherein the prompt is a modeless prompt to advise a user of the object being suppressed and to provide the user with a subsequent activation choice. One would be motivated to do so for a user-friendly manner of informing the user of a preventive measure by the invention. Office Action, p. 10 (emphasis added).

The Applicants agree that Pennell relates to a method and a mechanism for blocking "bad" windows and displaying "good" windows. However, the Applicants respectfully assert that Pennell fails to cure the deficiencies of Jerger and Donohue, discussed above, and that Pennell fails to teach or describe "detecting, by the browser at the client device, an object associated with the web page, *wherein the object is an activatable object having an action associated with the object*" and "displaying a modeless prompt *to advise the user of the suppression of the action associated with the object, wherein the modeless prompt provides a description of the object* for which the action is being suppressed" as recited in claim 1, as amended (emphasis added). As

cited by the Examiner, Pennell teaches and describes technology related to blocking pop-up windows (referred to within Pennell as "good" and "bad" windows). See Pennell, paras. [0043] and [0081]. However, Pennell notably fails to teach or describe detection by the browser of an *"activatable object* having *an action associated with the object"* or of a modeless prompt that "provides *a description of the object* for which the action is being suppressed," as recited in claim 1, as amended (emphasis added).

In addition to the arguments presented above, the Applicants further assert that Jerger, Donohue, and Pennell, individually and in combination, fail to teach or disclose the step of "upon determining the user acceptance of the selection opportunity, activating the action of the object by reloading the web page," as recited in claim 1, as amended.

The other independent claims, claims 21 and 36, as amended, recite similar limitations as claim 1, as amended, and are allowable over Jerger, Donohue and Pennell for at least the same reasons as presented herein. The dependent claims, *i.e.* claims 2-5, 7, 9, 11, 20, 22-26, 28, 37-43 and 45, incorporate all of the limitations of the above independent claims, respectively, and are allowable over Jerger, Donohue, and Pennell for at least the same reasons.

With respect to claims 2, 22, and 37, the Applicants respectfully assert that the combination of Jerger, Donohue and Pennell, in view of Touboul, further fails to render obvious the claims for at least the same reasons as presented herein. Touboul relates to "a system [that] comprises an inspector and a protection engine." Touboul, Abstract. The system in Touboul discloses "downloadable security profiles." Touboul, col. 5, ll. 28-32. The downloadable security profile "preferably includes a list of all potentially hostile or suspicious computer operations that may be attempted by the Downloadable, and may also include the respective arguments of these operations." Touboul, col. 4, ll. 4-7. The downloadable security profile is then compared to the local security policy. Touboul, col. 5, ll. 28-32. The identified portions of Touboul fail to teach or suggest the subject matter of claims 2, 22, and 37. Touboul fails to teach or disclose at least suppressing the action associated with an activatable object (i.e., as recited in the independent claims from which claims 2, 22, and 37 depend) "wherein the object is one of a COM object or an ActiveX control."

As such, Applicants respectfully request that the Examiner withdraw the rejection and allow all pending claims 1-5, 7, 9, 11, 20-26, 28, 36-43 and 45 at the Examiner's earliest convenience.

CONCLUSION

This Amendment fully responds to the Office Action mailed on August 9, 2011. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, the failure, if any, of this Amendment and Response to directly address an argument and/or comment raised in the Office Action should not be taken as an indication that the Applicants believes the argument and/or comment has merit. Additionally, the failure, if any, to address statements and/or comments made in the Office Action does not mean that the Applicants acquiesce to such statements and/or comments. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment and Response, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

This Amendment is filed concurrently with a Petition for Extension of Time and Request for Continued Examination. It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

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